

REMARKS

Overview

Claims 1 and 3-11 are pending and all claims have been rejected. This Amendment accompanies a Request for Continued Examination (RCE).

Claim Rejections

Claims 1-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Staron in view of Klarfeld et al. These rejections are traversed.

The Examiner has rejected the claims on the theory "all the elements are known, and could be implemented by known programming techniques to establish a predictable result of fewer channels based on language", citing as authority KSR Int. vs. Telefax, (2007). But, KSR also says obvious must have an "expansive and flexible approach", 127 S.Ct. at 1739 and there must be articulated reasoning and care since, "most if not all, inventions rely upon building blocks long since uncovered, and claim discoveries [which] almost of necessity will be combinations of what in some sense is already known" (Id. at 174). The Examiner must keep in mind the claims here are method claims and thus sequence of events is important. It makes a difference in baking a cake whether baking occurs before or after mixing the ingredients!

With respect to Staron, this document discloses that conventionally programming of the receiver must be carried out after installation (column 1 lines 23-24) to ensure all of the channels are recognized. To optimise this programming, the user can insert their ZIP code to determine the transmitting station providing the best reception, such that once tuned in to the same, all of the channels can be downloaded from that station (column 2 lines 4-12). This document therefore relates to obtaining the maximum number of channels by determining which transmitter

provides the best reception. In contrast the present invention only installs a subset of channels according to a user's predetermined profile. As such, Staron teaches away from the invention as the subject matter is directed at reducing the number of channels available, not maximising the number of channels available. And even KSR acknowledges teach away as evidence of non-obviousness.

With regard to Klarfeld, Figure 2 clearly shows how the preference determination for program selection is based on viewing habits which are analysed after sampling (see also paragraph 74). Thus all channels would have to be installed initially, to be able to sample the possible viewing habits and determine the preferences. In contrast, the present invention only installs a subset of the available channels according to a user's predetermined profile. Thus Klarfeld also teaches away from the present invention.

Some of the advantages of providing a subset of available channels on installation are indicated in paragraph 7 of the published application, and include simplifying usage of the receiver, as the user does not have to go through channels in which he has no interest, and saving EPG memory by having a reduced the number of channels which in turn may increase the speed at which the EPG operates and can be updated.

As mentioned above, both Staron and Klarfeld teach that all the channels should be installed, and combining the teachings of these documents would simply result in a device which installs all the channels, which can be limited in accordance with user preferences at a later date. The present invention is therefore non-obvious over this combination.

As such, we respectfully submit that the present claims which are admittedly novel, are also non-obvious.

Conclusion

This amendment accompanies the filing of a Request for Continued Examination (RCE). Please charge Deposit Account No. 26-0084 the amount of \$405.00 for the RCE per the attached transmittal.

This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for one month from August 5, 2008 to September 5, 2008. Applicant is a large entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$120.00 to cover the cost of the one-month extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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